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Honorable Katherine Polk Failla (*by ECF*)
United States District Judge
Southern District of New York
40 Foley Square
New York, NY 10007

Re: Dominguez v. City of New York, et al., 21 CV 2302 (KPF)

Dear Judge Failla:

I am an attorney in the office of the Honorable Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, counsel for defendants in this action. I was the Corporation Counsel's designee assigned to handle the defense of this matter until in or around February of this year, when I requested a reassignment. I have been informed that the Court has directed me, in that capacity, to prepare a statement in response to the following questions with regard to this matter: what investigative steps I took to identify relevant NYPD body worn camera footage (BWC); what footage I reviewed and when; and what steps I took to preserve the footage. The statement below is based on a review of documents and my recollection of the events.

My role as the staff attorney assigned to this matter with regard to BWC was to request that the NYPD Legal Bureau's Body Worn Camera Unit (BWC Unit) search for and identify relevant BWC. Accordingly, on June 17, 2021, I made a request to the BWC Unit that a search be conducted for relevant film based on broad parameters which, to my recollection, were derived from a review of the Complaint. That information included the names and tax registry numbers of the named defendant officers, the precinct of occurrence, the location of the incident, the allegations reflecting that multiple NYPD officers and/or officers assigned to NYPD's Emergency Services Unit (ESU) may have been present, and a time frame of 11:00 p.m. on December 31, 2019, to 7:00 a.m. on January 1, 2020. On July 20, 2021, I received a response from the BWC Unit stating that there was no BWC. On the same day, I followed up to advise the BWC Unit that I had received information that ESU officers had been at the scene and requested a further search. On July 29, 2021, I was informed by the BWC Unit that a further search had uncovered no BWC for ESU, which may have existed and then been deleted based on a retention period of 18 months. I was further informed at that time that the search had revealed other BWC, which the BWC Unit would make available to the Law Department by placing in

evidence.com. On July 29, 2021, six BWC films with “no expiration” were placed in evidence.com. These events took place well before discovery commenced and written discovery requests were served in February of 2022.

I vaguely recall reviewing the six available BWC films related to this matter in or around the summer of 2021. I do not recall the specifics of what I reviewed or when. Based on a review of documents maintained in evidence.com, it appears that I accessed the evidence.com database in regards to this matter on July 30, 2021, and, again, after the Court’s Order was brought to my attention, on November 9, 2022. Related to this, I understand that plaintiff’s counsel has attributed to me a statement to the effect that I reviewed hours of BWC. I have been informed that plaintiff’s counsel has offered no documentation or other support for this contention that might assist in refreshing my recollection. Although I have no specific recollection of any such conversation with plaintiff’s counsel, I do not believe that I stated that I reviewed hours of BWC. It is possible, however, that I stated that I spent hours reviewing BWC, as it is generally my practice to thoroughly review BWC. Further, to the best of my recollection, as borne out by the information in evidence.com, there were not many hours of available BWC for review.

Lastly, it has been my understanding that BWC film requested by the Law Department is preserved by the BWC Unit in keeping with its internal procedures and, once requested and placed in evidence.com, remains available in evidence.com.

Respectfully submitted,

/s/ Susan P. Scharfstein

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